



The Significance of *Maṣlahah* as a Legal Consideration in Family Inheritance

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Abstract

This study aims to examine the significance of *maṣlahah* (benefit) as a legal consideration in family inheritance, with a specific focus on the principal issue of how the practices of division and transfer of family inheritance occur in Margoyoso Village, Kalinyamatan District, Jepara Regency, and the relevance of the principle of *maṣlahah* as a foundational legal consideration. In alignment with the focus of the problem, this study is classified as field research employing a qualitative approach based on case studies. Data were collected through in-depth interviews using a semi-structured method with eight informants, comprising heirs, religious and community leaders, notaries, and advocates. The findings of the study suggest that the transfer of inheritance rights within the distribution of family inheritance in Margoyoso Village, Kalinyamatan District, Jepara Regency, reflects values of social justice and humanity. The transfer of inheritance rights, conceptualised as a gift from an Islamic legal perspective, indicates alignment with the principle of *maṣlahah*. However, the findings also reveal weaknesses in the formal legal aspect, particularly when viewed through the lens of the Indonesian Civil Code, as the process of transferring inheritance rights is predominantly conducted through verbal agreements, which may potentially lead to future conflicts. This study advocates for the development of discourse on the integration of Islamic law and positive law, specifically concerning the transfer of inheritance rights within the distribution of family inheritance. Furthermore, it aims to serve as a reference for the government in formulating legal policies that emphasise the integration of *maṣlahah* theory in Islamic law with benefit theory in positive law, in order to uphold justice, legal certainty, and the continuity of family relationships.

Keywords: Distribution of Inheritance; Family Inheritance; Harmonization of Law; Islamic Law; *Maṣlahah*.

Abstrak

Penelitian ini bertujuan mengkaji signifikansi masalah sebagai pertimbangan hukum dalam warisan keluarga, dengan memfokuskan pada masalah utama, yaitu bagaimana praktik pembagian dan peralihan warisan keluarga di Desa Margoyoso, Kecamatan Kalinyamatan, Kabupaten Jepara, dan relevansi prinsip masalah sebagai dasar pertimbangan hukum. Sesuai fokus masalah tersebut, penelitian ini termasuk ke dalam jenis penelitian lapangan dengan menggunakan pendekatan kualitatif berbasis studi kasus. Data diperoleh melalui wawancara mendalam menggunakan metode semi-terstruktur dengan delapan informan, terdiri dari para ahli waris, tokoh agama dan tokoh masyarakat, notaris, dan advokat. Hasil penelitian menunjukkan bahwa peralihan hak waris dalam pembagian warisan keluarga di Desa Margoyoso, Kecamatan Kalinyamatan, Kabupaten Jepara mencerminkan nilai keadilan sosial dan kemanusiaan. Peralihan hak waris dalam bentuk hibah ini dalam perspektif hukum Islam telah mengindikasikan sejalan dengan prinsip masalah. Namun, temuan penelitian ini juga menunjukkan adanya kelemahan dari aspek hukum formal terutama dilihat dari dimensi Kitab Undang-Undang Perdata Indonesia dikarenakan proses peralihan hak waris tersebut hanya dilakukan dalam kesepakatan lisan, sehingga berpotensi menimbulkan gejolak konflik di masa mendatang. Pengembangan diskursus mengenai integrasi antara hukum Islam dan hukum positif, khususnya dalam konteks peralihan hak waris dalam pembagian warisan keluarga, serta menjadi acuan bagi pemerintah dalam menyusun kebijakan hukum yang berfokus pada integrasi antara teori masalah dalam hukum Islam dan teori kemanfaatan dalam hukum positif, demi menjaga keadilan, kepastian hukum, dan kelangsungan hubungan keluarga.

Kata kunci: Harmonisasi Hukum; Hukum Islam; Masalah; Pembagian Waris; Warisan Keluarga.



Introduction

The Indonesian inheritance law system fundamentally represents a pluralistic and complex legal structure, encompassing three primary subsystems that operate concurrently: Islamic inheritance law, civil inheritance law, and customary inheritance law.¹ These three systems exhibit distinct characteristics, implementation procedures, and normative foundations for determining inheritance rights and shares, thereby reflecting the cultural, social, and religious diversity of Indonesian society.² This observation underscores that, in practice, the distribution of inheritance in Indonesia is significantly influenced by various factors, including religious beliefs, socio-cultural backgrounds, and familial contexts.³

This legal pluralism offers flexibility in the resolution of inheritance disputes; however, it also poses considerable challenges, one of which pertains to the consistency of legal application and the fairness of inheritance practices at the local community level.⁴ Empirically, it is not uncommon for local communities to allocate inheritance to siblings without adhering to established legal procedures,⁵ as evidenced by the community in Margoyoso Village, Kalinyamatan District, Jepara Regency. Observations indicate that the transfer of inheritance to siblings following the division of inheritance is often executed through verbal agreements among heirs, wherein willingness serves as the primary basis for decision-making, devoid of the necessity for an official deed. Local communities regard this method as an effective and pragmatic approach to preventing familial disputes, expediting the resolution process, and minimising the involvement of external entities such as judicial institutions, notaries, community and religious leaders, or other legal authorities. Furthermore, this approach is perceived by the community as a reflection of a familial system that prioritises harmony among family members.

Although this method reflects a noble family system, some scholars argue that it undermines existing legal mechanisms and indicates a societal preference for inheritance resolution based on local socio-cultural values.⁶ This situation may lead to familial conflict in the future when all heirs involved in the inheritance transfer have passed away, and the children of each heir, now adults, begin to question the validity of the mutual agreement regarding the transfer of the inheritance—a plot of land with a house on it—to their parents' siblings, who are the designated recipients of the inheritance. The potential for familial conflict may intensify when the inheritance experiences fluctuations in value.⁷ Therefore, the

¹ Hendri Khuan et al., "Customary Law in Modern Legal Systems: Lessons from Indonesia and South Africa," *Novum Jus* 19, no. 2 (2025): 81, <https://doi.org/10.14718/NovumJus.2025.19.2.3>.

² Sanne Ravensbergen, "Meetings and Minutes: Spaces of Lawmaking and Legal Translation in Colonial Indonesia," *Journal of Southeast Asian Studies* 54, no. 4 (2023): 752, <https://doi.org/10.1017/S0022463423000711>.

³ Neisty Pratiwi, "Pembagian Warisan Dalam Hukum Islam: Konflik Dan Solusi Di Pengadilan Agama," *Jurnal Ilmiah Ar-Risalah: Media Keislaman, Pendidikan Dan Hukum Islam* 23, no. 01 (2025): 74, <https://doi.org/10.69552/ar-risalah.v23i1.2762>.

⁴ Rosalina Limbong, "A Legal Perspective on Inheritance of Joint Property: A Comparative Analysis of Various Legal Systems," *Legal Frontier* 1, no. 1 (2025): 11–12, <https://pub.muzulab.com/index.php/LegalFrontier/article/view/7>.

⁵ Zainal Arifin, Maskota Delfi, and Sidarta Pujiraharjo, "Tunggu Tubang and the Extended Family Property Inheritance System in Semende Community, Indonesia," *Social Identities* 29, no. 3 (2023): 246, <https://doi.org/10.1080/13504630.2023.2210075>.

⁶ Abdul Qodir Zaelani et al., "An Implementation of the Joint Inheritance Division of Ethnic Groups in Lampung, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1373–75, <https://doi.org/10.22373/sjhk.v7i3.9125>.

⁷ Victoria K Wells, Marylyn Carrigan, and Navdeep Athwal, "Holding on or Letting Go: Inheritance as a Liminal Experience," *Marketing Theory* 23, no. 3 (2023): 509–10, <https://doi.org/10.1177/14705931231162400>.

mechanisms for the distribution and transfer of inheritance, from the perspectives of utility and justice, necessitate critical examination through the lens of *maṣlahah* (benefit). In Islamic civil law, *maṣlahah* is defined as a concept that emphasises the public interest and the protection of five fundamental aspects of life: religion, life, intellect, descendants, and property.⁸

Research on the distribution of family inheritance is not novel. Mutakabbir et al.⁹ underscored the significance of the customary distribution system oriented towards collective interests to achieve sharia goals, such as maintaining dignity, property, and life. The findings of Ilyas et al.¹⁰ indicate that legal pluralism plays a crucial role in understanding the relationship between customary law and Islamic law, as well as the necessity to update inheritance law in response to social changes within society. Abduroaf & Ceres,¹¹ along with Hifdhotul et al.,¹² emphasised that inheritance distribution in the context of divorce and marriage prior to death requires an approach grounded in *maṣlahah mursalah* and the principle of *maqḥāṣid al-sharia* to ensure justice, thereby guaranteeing that the wife receives a proportional share of the inheritance.

Maimanah et al. (2024)¹³ assert that legal institutions, including courts, judges, advocates, and religious scholars, lack the authority to compel communities to immediately distribute inheritance. In the Banjar community, customary inheritance law is more influential than Islamic law, leading to the perception that delaying inheritance distribution aligns with local cultural and ethical values. The research findings of Hasan et al. (2024)¹⁴ indicate that the inheritance system in Muslim communities in Borneo-Nusantara exhibits greater flexibility and responsiveness to local socio-cultural changes, resulting in distinctive characteristics in the inheritance transfer process and significantly contributing to the resolution of inheritance conflicts. Meanwhile, Nasution and Muchtar (2024)¹⁵ highlight that family inheritance disputes in the context of polygamy within religious courts often face more complex issues, necessitating an integrated approach that incorporates classical Islamic jurisprudence and the

⁸ Aristoni and Dea Prahesti, "Legal Reconstruction Settlement of Mudharabah Claims at KSPPS BMT Muamalat Mulia Kudus: Maslahah Mursalah Perspective," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 15, no. 2 (2024): 325–27, <https://doi.org/10.22212/jnh.v15i2.4542>.

⁹ Abdul Mutakabbir, Hastuti Hastuti, and Mikdar Rusdi, "The System of Inheritance Distribution in South Sulawesi," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (2023): 57, <https://doi.org/10.18326/ijtihad.v23i1.57-76>.

¹⁰ Ilyas Ilyas et al., "The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 897, <https://doi.org/10.22373/sjkh.v7i2.15650>.

¹¹ Muneer Abduroaf and Mogamat Soliegh Ceres, "Addressing Inheritance and Divorce Disputes in Deathbed Situations: A Maslahah-Based Study of South Africa's Muslim Minority," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 8, no. 1 (2024): 47, <https://doi.org/10.30659/jua.v8i1.36782>.

¹² Hifdhotul Munawaroh et al., "Maslahah and Justice in Islamic Inheritance: A Normative and Jurisprudential Inquiry," *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan* 24, no. 2 (2025): 184, <https://doi.org/10.30863/ekspose.v24i2.9990>.

¹³ Maimanah Maimanah et al., "Delay in the Division of Inheritance: A Theoretical Review within Legal System Framework in Indonesia," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (2024): 241, <https://doi.org/10.18592/sjhp.v24i1.12916>.

¹⁴ Muhammad Hasan, Dahlia Haliah Ma'u, and Muallimin Mochammad Sahid, "Inheritance Property Distribution Models Among the Muslim Community of Borneo-Nusantara," *Al-'Adalah* 21, no. 1 (2024): 175, <https://doi.org/10.24042/adalah.v21i1.22310>.

¹⁵ Hotnidah Nasution and Ahmad Rifqi Muchtar, "Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 1 (2024): 124, <https://doi.org/10.24090/mnh.v18i1.10921>.

Compilation of Islamic Law, alongside more progressive appellate decisions to achieve justice for women in the Indonesian context.

Several previous studies share similarities with the current research regarding the subjects discussed; however, they do not specifically address the relationship between sharia and the practice of distribution and transfer of family inheritance, as well as the legal implications arising from this practice. Consequently, this study aims to fill the gap in prior research. The primary objective of this study is to examine the significance of *maṣlahah* as a legal consideration in family inheritance, focusing on the central issue of the distribution and transfer of family inheritance in Margoyoso Village and the relevance of the principle of *maṣlahah* as a basis for legal consideration. The novelty of this study lies in its presentation of the *maṣlahah* approach as a legal framework for analysing this practice, thereby providing a comprehensive and contextual understanding of the mechanisms of distribution and transfer of inheritance assets adopted by the Margoyoso community in creating benefits and justice while protecting inheritance rights. This study contributes to the development of discourse on the application of the principle of *maṣlahah* within the contextual framework of Islamic inheritance law in the local community and serves as a reference for stakeholders in designing a mechanism for inheritance distribution that is fair and aligned with the evolving dynamics of community law.

Method

This paper can be classified as a type of field research employing a qualitative-based approach in the form of a case study. To address the primary issues identified, this study utilises data sources comprising both primary and secondary data. Primary data were collected through in-depth interviews using semi-structured methods with ten informants, including heirs, religious and community leaders, notaries, and advocates. The interview process aimed to gather information pertaining to the division and transfer of inheritance assets within Margoyoso Village, Kalinyamatan District, Jepara Regency, and was conducted over the course of one month.

Meanwhile, the secondary data employed in this study consist of: (1) primary legal materials, including the Qur'an, the Compilation of Islamic Law, and several pertinent regulations; (2) secondary legal materials, such as books on inheritance, scholarly articles, magazines, and other relevant library materials; and (3) additional secondary legal materials in the form of encyclopaedias and dictionaries of Islamic law.

Following the collection of all data, the next stage involved testing the validity of the data through a credibility assessment, which included extended observation, increased perseverance, and triangulation across sources, techniques, and timeframes. Subsequently, the data resulting from the validity test were subjected to in-depth analysis using descriptive data analysis techniques. This analysis aimed to present the information or data in a coherent, systematic, and logical manner, ensuring clarity and preventing overlap in sentence structure, thereby facilitating a more accessible understanding of the analytical outcomes.

Dynamics of the implementation of inheritance law in Indonesia

The application of inheritance law in Indonesia encounters highly complex dynamics influenced by religious, social, and cultural backgrounds, as well as the national legal system.¹⁶

¹⁶ Raja Ritonga and Mahyudin Ritonga, "The Dynamics of Islamic Inheritance in Indonesia Between Sharia and Social Realities," *Maqasid: Jurnal Studi Hukum Islam* 13, no. 1 (2024): 60,

Currently, the inheritance laws in force in Indonesia encompass customary inheritance law, Islamic inheritance law, and inheritance law under the Civil Code.¹⁷ A closer examination reveals that these three legal systems each possess specific characteristics and mechanisms for distributing inheritance,¹⁸ often overlapping and leading to confusion and conflict regarding which inheritance law should apply.¹⁹

The diversity of inheritance laws in force in Indonesia (*ius constitutum*) is a legacy of colonial history, which delineated legal systems based on social classifications, such as Islamic law for Muslims, customary law for local communities, and Western civil law for citizens of European and Chinese descent. These systems have evolved alongside social and political changes, reflecting the legal diversity that persists within Indonesia's multicultural society.²⁰ The Dutch colonial influence has resulted in diverse legal systems,²¹ such as that of the Minangkabau community, which prioritises a matrilineal system, in contrast to the Javanese community, which integrates Islamic values with local customs.²² Islamic inheritance law, for instance, is grounded in sharia principles, which clearly and comprehensively regulate the distribution of inheritance, as delineated in the Quran and the Compilation of Islamic Law (KHI). Regulations such as an Islamic inheritance law (*faraid*) establish explicit proportions for male and female heirs, typically applied in religious courts to address inheritance disputes among Muslims.²³ In contrast, customary inheritance law is significantly shaped by local values and kinship structures, which may be matrilineal, patrilineal, or bilateral, depending on the community. For example, the Batak community adheres to a patrilineal system whereby inheritance is transmitted through the male line, while the Minangkabau community observes a matrilineal system that emphasises maternal descent.²⁴

Conversely, inheritance law under the Civil Code places greater emphasis on the principle of testamentary freedom and the recognition of individual property rights, permitting heirs to distribute their property freely via a will. This contrasts with Islamic or customary legal systems, which are more closely aligned with collective norms. In this context, Suryawan and Sara²⁵ elucidate that the disharmony among these three legal systems

<https://doi.org/10.30651/mqs.v13i1.22583>.

¹⁷ Sonny Judiasih and Efa Laela Fakhriah, "Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia," *PADJADJARAN Jurnal Ilmu Hukum* 5, no. 2 (2018): 316, <https://doi.org/10.22304/pjih.v5n2.a6>.

¹⁸ Zainuddin Mappong and Lili, "Right to Self Submission to Western Inheritance Law for the Heirs Of Islamic Religion Whom the Property Leaver Has Different Religion," *Journal of Law and Sustainable Development* 11, no. 2 (2023): 3, <https://doi.org/10.55908/sdgs.v11i2.423>.

¹⁹ Suwarti, Decha Khunmay, and Stepan Abannokovya, "Conflicts Occurring Due to the Application of Different Legal Inheritance Systems in Indonesia," *Legality: Jurnal Ilmiah Hukum* 30, no. 2 (2022): 215, <https://doi.org/10.22219/ljih.v30i2.21020>.

²⁰ Muhammad Tsaqib Idary et al., "Plurality of Inheritance Legal System for Indonesian Muslims: A Sociological Review," *TATHO: International Journal of Islamic Thought and Sciences* 1, no. 4 (2024): 255–57, <https://doi.org/10.70512/tatho.v1i4.55>.

²¹ Zaid Abubakari, Christine Richter, and Jaap Zevenbergen, "Plural Inheritance Laws, Practices and Emergent Types of Property-Implications for Updating the Land Register," *Sustainability* 11, no. 21 (2019): 3–4, <https://doi.org/10.3390/su11216087>.

²² Muhammad Latif Fauzi, "Changing Trends in the Study of Sharia in Indonesia: An Account on Relevant Bibliographies," *JOURNAL OF INDONESIAN ISLAM* 16, no. 2 (2022): 520, <https://doi.org/10.15642/JIIS.2022.16.2.511-533>.

²³ Yayat Dimyati, "Inheritance in the Perspective of Customary Law and the Compilation of Islamic Law," *VRISPRAAK: International Journal of Law* 9, no. 1 (2025): 58, <https://doi.org/10.59689/vris.v9i1.1155>.

²⁴ Ahmad Jamburi and Mohammad Muhibbin, "Matrilineal System Mechanism for The Distribution of Inheritance Rights," *Jurnal Cakrawala Hukum* 15, no. 2 (2024): 122, <https://doi.org/10.26905/idxch.v15i2.15159>.

²⁵ I Nengah Pasek Suryawan and Rineke Sara, "Legal Certainty Regarding Pluralism of Inheritance Law in

engenders confusion within society, particularly in inheritance situations involving multiple legal frameworks. Furthermore, they articulate that a Muslim heir hailing from a specific traditional community may experience uncertainty in selecting which legal system to adhere to. In practice, the choice of a legal system is frequently influenced not by substantive legal considerations, but rather by the desire to secure a more advantageous share of the inheritance. Consequently, the resolution of inheritance disputes often precipitates contentious debates in court.

In her study, Anggraeni²⁶ noted that the resolution of inheritance disputes arises from disparities in legal systems. Several court decisions have superseded the customary kinship system as delineated in Islamic law and state law. These judicial rulings illustrate a shift in the inheritance distribution framework, which no longer strictly adheres to the customary kinship system. Furthermore, the diversity of legal systems is compounded by the absence of codification or unification of national inheritance law as a singular reference point. Although the Compilation of Islamic Law has served as the primary reference source for Islamic communities, its application is limited and not binding on all citizens. The Civil Code is applicable only to specific groups, particularly those of European and Chinese descent, whilst customary law lacks formal regulations and relies heavily on local interpretation. Consequently, law enforcement officials, including judges and notaries, often face challenges in determining the appropriate legal system for resolving inheritance disputes.

The inheritance law system, originally intended to accommodate diversity, has the potential to create irregularity and fragmentation in its application within society. In this context, without a mechanism to harmonise the various systems, the diversity of these frameworks can evolve into dualism or even normative conflict. Therefore, an interlegal approach is necessary that supports the integration of values from each legal system to construct a more just, contextual, and collectively applicable inheritance legal framework in Indonesia.²⁷ Another critical issue concerning the application of inheritance law in Indonesia is the low level of legal knowledge among the public. Many individuals are unaware of formal inheritance legal procedures, such as the importance of preparing a will, inheritance deed, or determining heirs through the courts. This lack of understanding results in inheritance processes proceeding without a clear legal foundation, potentially leading to conflict among heirs. Upon the testator's death, the absence of legal documents can also lead to confusion regarding the distribution and transfer of inheritance property, potentially resulting in protracted disputes. Research findings by Siregar and Handoko²⁸ revealed that this deficiency in legal understanding is a significant contributor to the increase in inheritance cases in court.

The complexity of implementing inheritance law is further exacerbated by the fact that many notaries lack a comprehensive understanding of the three inheritance legal systems in force in Indonesia.²⁹ While notaries play a critical role in resolving inheritance issues within

Indonesia in the Transfer of Inheritance Rights in Indonesia," *Indonesian Journal of Multidisciplinary Science* 4, no. 3 (12024): 145–47, <https://doi.org/10.55324/ijoms.v4i3.1041>.

²⁶ Rr Dewi Anggraeni, "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints," *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023): 25, <https://doi.org/10.15408/ajis.v23i1.32549>.

²⁷ Utama Wardi et al., "Comparative Analysis of Islamic Family Law and Customary Law in the Settlement of Inheritance Disputes in Indonesia," *Hakamain: Journal of Sharia and Law Studies* 3, no. 1 (2024): 13, <https://doi.org/10.57255/hakamain.v3i1.330>.

²⁸ Gagah Hotma Parulian Siregar and Widhi Handoko, "Kajian Studi Kasus Hukum Waris Putusan Mahkamah Agung Nomor 784 K/Pdt/2014 Terhadap Kententuan Hukum Waris Barat," *Notarius* 15, no. 2 (2022): 607, <https://doi.org/10.14710/nts.v15i2.36976>.

²⁹ Muhammad Alif Santosa and Wira Franciska, "Legal Protection for Heirs Who Have Not Received Their

society, which necessitates the simultaneous application of customary law, Islamic law, and the Civil Code,³⁰ they often struggle to devise appropriate solutions to inheritance problems, leaving their implementation highly dependent on various local interpretations.³¹ As previously mentioned, the absence of a unified legal framework results in irregularities in inheritance practices and complicates law enforcement's ability to establish a consistent legal basis.³²

Internationally, Indonesia significantly lags behind in the reform of inheritance law. Countries such as the Netherlands have implemented inheritance laws that integrate both general and local principles. In contrast, Malaysia, a nation characterised by similar legal diversity, has developed an integrated Islamic and customary inheritance law system within a single national legal framework. This reform is essential for establishing legal certainty, expediting dispute resolution, and safeguarding the rights of heirs. Indonesia's shortcomings in this domain highlight the pressing need for legal reforms that reflect societal needs and align with international legal developments.

Inheritance disputes not only impact the legal sphere but also encompass social and psychological dimensions. Familial conflicts regarding the distribution of inheritance can jeopardise long-standing family relationships. In certain circumstances, inheritance issues may result in family estrangement, mental trauma, and even violence. Consequently, the resolution of inheritance disputes should prioritise mediation and reconciliation methods grounded in family values, such as dialogue, mutual respect, and justice that promote the common good. This approach has demonstrated greater success in preserving relationships among heirs, averting protracted conflicts, and producing solutions that are mutually agreed upon by all parties. In contrast to litigation, which is adversarial and often exacerbates tensions, mediation facilitates the resolution of family inheritance disputes, achieving agreements that are not only legally binding but also consistent with familial ethics and social norms.

From a gender perspective, inheritance regulations in Indonesia continue to disadvantage women. Under customary law, women are frequently not recognised as beneficiaries or heirs, particularly in systems that adhere to the male line.³³ Islamic law further stipulates that women receive a smaller share of inheritance than men, despite the fact that, in certain circumstances, women bear greater economic responsibilities.³⁴ This inequality contradicts the principle of gender equality enshrined in the 1945 Constitution of the Republic of Indonesia and the CEDAW Convention, to which Indonesia is a signatory.

Rights in Inheritance Distribution," *Journal of Social Research* 4, no. 8 (2025): 2157, <https://doi.org/10.55324/josr.v4i8.2727>.

³⁰ Venia Utami Keliat, Syifaa Setiawan, and Yanti Arnilis, "Peran Notaris Dalam Pembagian Dan Penyelesaian Sengketa Waris," *Unes Law Review* 7, no. 3 (2025): 1469, <https://doi.org/10.31933/unesrev.v7i4.2427>.

³¹ Natasya Margaretha and Bono Budi Priambodo, "The Effectiveness of the Notary's Role in the Inheritance Distribution Process in Society: A Comparative Study Between Batak Toba Customary Law and Civil Law," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 1 (2025): 5639–6540, <https://doi.org/10.31941/pj.v24i2.6401>.

³² Nur Afni A., Sarah Suleman, and Arfan, "Legal Implications of Inherited Land Certificate Split: A Review of Agrarian Law and Inheritance Law Perspectives," *NUKHBATUL 'ULUM: Jurnal Bidang Kajian Islam* 10, no. 118–137 (2024): 118, <https://doi.org/10.36701/nukhbah.v10i1.1375>.

³³ Setiati Widiastuti et al., "A Shift of Inheritance Tradition in Batak Migrant Communities in Yogyakarta," *Jurnal Civics: Media Kajian Kewarganegaraan* 21, no. 1 (2024): 46–48, <https://doi.org/10.21831/jc.v21i1.71621>.

³⁴ Sergio Felix Asalim, Sugianto, and Setyabudhi, "Ketidakteraturan Pewarisan Dalam Penerapan Hukum Waris Secara Nasional," *Aktivisme: Jurnal Ilmu Pendidikan, Politik Dan Sosial Indonesia* 1, no. 3 (2024): 301, <https://doi.org/10.62383/aktivisme.v1i3.398>.

The overarching issues in the implementation of inheritance law, as outlined above, reveal significant challenges within the national legal system, which has not adequately addressed the diversity and needs of society. Legal diversity, regulatory inconsistencies, gender bias, and insufficient legal literacy are critical issues that require immediate attention. Consequently, legal reconstruction is necessary by harmonising the three inheritance law systems through an interlegality approach. This methodology facilitates the integration of values from each legal system to establish a just and relevant national inheritance law.³⁵ However, this legal reconstruction must ensure the provision of substantial justice, legal certainty, and the protection of the rights of the community as heirs, while taking into account the social and economic conditions of the inheritance recipients, rather than merely creating written norms.

Equally important is the socialisation and education of the law through various initiatives, such as training sessions and seminars on inheritance. This endeavour needs to be consistently improved in a planned and sustainable manner. The government, universities, religious leaders, and community leaders must actively educate the public about their rights and obligations in the inheritance process, particularly regarding how to employ solution-oriented methods to address potential conflicts that may arise in the distribution and transfer of family inheritance. Through these legal literacy activities, it is anticipated that the public will gain a better understanding of the significance of legal documents such as wills, inheritance deeds, and proof of ownership as valid evidence in resolving inheritance disputes. This understanding will also contribute to raising legal awareness, enabling the public to prepare inheritance documents regularly and in accordance with existing regulations, thereby averting potential conflicts among heirs. Thus, legal understanding not only enhances an individual's ability to comprehend inheritance rights and obligations but also strengthens preventive and resolution methods to maintain family harmony through equitable and transparent legal processes.

Considerations regarding the Margoyoso community in the transfer of familial inheritance rights

Studying humans from an ethnological and anthropological perspective fundamentally facilitates an understanding of how individuals and groups think and act in their daily lives, both as individuals and as social entities, particularly concerning socio-cultural, economic, political, kinship, and inheritance issues.³⁶ This assertion is grounded in the intrinsic relationship between humans and their environment, characterised by a reciprocal dynamic.³⁷ This implies that an individual's cognitive and behavioural patterns can influence their environment, while conversely, environmental conditions can also shape an individual's actions, particularly in the context of transferring inheritance rights.³⁸

³⁵ Syaikh et al., "Legal Harmonization in the Distribution of Inheritance in the Dayak Ngaju Community in Central Kalimantan, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 195, <https://doi.org/10.22373/sjkh.v7i1.12410>.

³⁶ Wempy Setyabudi Hernowo, Zaid, and M. AUFAR Saputra Pratama Erawan, "Peran Sociological Jurisprudence Dalam Menciptakan Keefektifitasan Hukum Melalui Living Law," *Legalitas: Jurnal Hukum* 13, no. 1 (2021): 47, <https://doi.org/10.33087/legalitas.v13i1.243>.

³⁷ Andi Nursinah et al., "Environmental Sociology Approach From A Social Risk Perspective," *International Journal of Health Science* 1, no. 2 (2023): 102, <https://doi.org/10.59585/ijhs.v1i2.59>.

³⁸ Sourav Chandra Gorain, "Human, Society and Environment: A Collaborative Study," *EPRA International Journal of Multidisciplinary Research (IJMR)* 9, no. 1 (2023): 104, <https://doi.org/10.36713/epri12247>.

In the realm of transferring inheritance rights to familial property, communities generally adhere to legal procedures delineated in an official deed prepared before authorised officials.³⁹ This process aims to ensure legal certainty regarding the rights of the heirs and serves as a preventative measure to mitigate potential future disputes, particularly in instances where an heir who previously transferred property to a sibling may later alter their stance.⁴⁰ Moreover, it addresses concerns that the offspring of each heir might contest the validity of these legal documents during the process of transferring their parents' inheritance. Consequently, what considerations does the Margoyoso community take into account when transferring inheritance rights that were previously theirs to siblings?

Research findings indicate that the Margoyoso community's decisions regarding the transfer of inheritance assets are primarily informed by emotional considerations, familial solidarity, and principles of social justice. Such decisions are not made arbitrarily; rather, they stem from a genuine need for assistance from their siblings. One heir, referred to as JS,⁴¹ articulated that he granted his inheritance rights to his siblings because he believed they required them more than he did. He further elaborated that formal legal matters, such as notarial deeds, held little significance for him; indeed, he perceived the procedure itself as conveying a lack of sincerity in the act of giving. Concerned about potential future disputes, he expressed his intention to explain the situation to his children when they were older.

MS articulated a similar perspective,⁴² asserting that the transfer of inheritance to his sibling was predicated solely on a sense of responsibility towards fellow siblings, aimed at fostering harmonious family relationships, thereby obviating the necessity for formal documentation. For MS, the voluntary agreement of all heirs and family members rendered the arrangement valid beyond the confines of a notarial deed. Furthermore, AR⁴³ indicated that his party endorsed the transfer of inheritance rights to his sibling, viewing it as an act of service to a family in need. He emphasised that his decision was not the result of coercion from any party but rather stemmed from a genuine desire to see his sibling partake in the joy of others, even at the expense of relinquishing what was rightfully his. However, he contended that what was advantageous for his sibling was also beneficial for himself and his family, thus negating any concerns regarding the inheritance.

In addition to the various considerations underpinning the heir's decision to waive his rights, another significant factor was the enduring bond between the heir and his sibling, who were also co-heirs. This dynamic further reinforced the intention of the other heirs to allocate their property to their siblings, with the hope of preserving the trust and utilising it for its intended purpose. SP elucidated that the inheritance comprised a plot of land upon which a house had been constructed.⁴⁴ The inheritance was intended to be divided among six individuals, with each heir receiving an equal share, a 1:1 ratio. This distribution was grounded in the principles of proportionality, willingness, and consensus among the heirs. However, in light of one heir's homelessness and unemployment, this circumstance prompted

³⁹ Fernandus H Pardede, "Legal Statement of Deed of Inheritance Made by a Notary Who Does Not Include All Heirs in the Distribution of Inheritance," *Indonesian Journal of Advanced Research* 2, no. 5 (2023): 435, <https://doi.org/10.55927/ijar.v2i5.4164>.

⁴⁰ Diana Geanina Ionaş, "The Certificate of Inheritance—Legal Nature and Probative Value," *Bulletin of the Transilvania University of Braşov, Series VII: Social Sciences and Law* 15, no. 2 (2022): 283, <https://doi.org/10.31926/but.ssl.2022.15.64.2.18>.

⁴¹ JS, "Interview with heirs in Margoyoso" (2023)

⁴² MS, "Interview with heirs in Margoyoso" (2023)

⁴³ AR, "Interview with heirs in Margoyoso" (2023)

⁴⁴ SP, "Interview with heirs in Margoyoso" (2023)

a collective awareness among the other heirs to donate what had become their property to their siblings in need.

In relation to this matter, AT posited that the transfer of inheritance to his siblings represented a manifestation of empathy, aimed at fostering a harmonious family system and striving to mitigate social inequality among the heirs. In agreement with AT's assertion, ST remarked that the transfer of inheritance rights in the form of a plot of land with an accompanying house was a mutual agreement among the other heirs to be allocated to siblings who required the inheritance assets. This decision was made with consideration of the social and economic circumstances of the siblings, as well as in the spirit of kinship among all heirs, thereby facilitating the resolution of the division and transfer of inheritance rights through deliberation and consensus.

Meanwhile, despite the various reasons why heirs transfer their inheritance rights to their siblings, JK stated⁴⁵ that transferring assets from inheritance distribution without adhering to legal procedures can significantly heighten the risk of future conflicts. This risk may be exacerbated by the heirs' precarious economic situations or insufficient educational backgrounds, potentially leading to misunderstandings, counterclaims, or ownership disputes in the future if not accompanied by valid legal documents and approval from authorised institutions. FS expressed a similar viewpoint,⁴⁶ emphasising that heirs, particularly those transferring their rights, should carefully consider the legal implications. Although religious or customary contexts may permit assistance for humanitarian reasons to siblings, the transfer process must still be conducted in accordance with applicable law. This is crucial to ensure that the transfer possesses clear legal standing and protection, especially for the heirs as future recipients of the transferred rights. Without an authentic deed or official document approved by authorised officials, this action risks resulting in disputes, counterclaims, or the revocation of inheritance rights, particularly if the circumstances or attitudes of the parties involved change.

HM expressed a congruent sentiment,⁴⁷ stating that the transfer of inherited assets among related relatives is permissible in Islam, as it embodies the principle of mutual assistance (*ta'āwun*). This is permissible on the condition that all parties are sincere and agreeable to one another and do not cause harm to each other in the future. Although permissible, it is advisable to officially register such transfers to mitigate the potential for disputes in the future. Meanwhile, SB stated that,⁴⁸ in principle, Islam strongly encourages individuals to act benevolently towards others, particularly towards siblings in need, including the transfer of their inheritance rights to their siblings. However, it is essential to acknowledge that this issue may generate tension in the future, particularly among the children of the heirs, if the practice is not officially registered to secure legal protection.

Based on the research findings presented above, it is evident that the decision to transfer inheritance rights from heirs to siblings in Margoyoso Village can be classified as a form of gift, which is typically grounded in family solidarity and humanitarian values. From an Islamic legal perspective, the actions of these heirs embody the principle of *maṣlahah*, which seeks to create benefits rooted in a profound concern for preventing harm to family members, thereby ensuring the continuation of a harmonious life. This assertion is consistent with the

⁴⁵ JK, "Interview with Notary and PPAT of Jepara Regency" (2023)

⁴⁶ FS, "Interview with Jepara Regency Advocate" (2023)

⁴⁷ HM, "Interview with Religious Leaders in Pecangaan District, Jepara Regency" (2023)

⁴⁸ SB, "Interview with Community Leaders in Jati District, Kudus Regency" (2023)

concept of *maṣlahah* articulated by Al-Ghazali, as cited by Hasballah et al.,⁴⁹ who posited that *maṣlahah* fundamentally comprises five main principles of the objectives of Sharia: religion, reason, life, property, and descendants. Consequently, any action undertaken by an heir aimed at promoting the welfare of the family can be regarded as a means of safeguarding the family's assets and well-being.⁵⁰ Furthermore, Imam al-Syatibi, in his theory of *maqāṣid al-sharia*, as referenced by Rahmadi et al.,⁵¹ elucidates that *maṣlahah*, which does not conflict with textual evidence (sharia evidence), can serve as a legitimate basis for legal rulings.

This principle is pivotal in contemporary Islamic jurisprudence, where the *maqāṣid al-sharia* approach affords flexibility to legal frameworks, enabling them to address the needs of modern society while upholding the core values of Sharia. Al-Shatibi, as noted by Aydin & Cevherli,⁵² asserted that Islamic law is not solely predicated on texts but must also consider social conditions and the interests of the community. Thus, the transfer of inheritance rights as practised by the residents of Margoyoso Village—where the transfer occurs voluntarily and without coercion, with the primary objective of providing assistance to relatives in greater need—can be categorised as *maṣlahah mursalah*, referring to benefits not explicitly mentioned in the Qur'an but recognised as aligning with the objectives of Sharia. A similar perspective was articulated by Masdar F. Mas'udi in Junaidi,⁵³ who asserted that *maṣlahah* can be interpreted as a theory of social justice in Islam, emphasising that Islamic law must be responsive and contextually relevant to societal needs. In light of this perspective, the actions of heirs in transferring their inheritance rights based on a sense of empathy can be interpreted as a manifestation of distributive justice that resonates with the essence of Sharia.

However, a somewhat divergent viewpoint was presented by Wahbah al-Zuhaili,⁵⁴ who contended that *maṣlahah* can serve as a legal basis provided it does not contradict the text. Regarding the practice of transferring inheritance rights, if the transfer is not formally registered through legal procedures, it may still be acknowledged, provided it satisfies the elements of consent, justice, and does not have the potential to incite conflict. Nonetheless, to mitigate potential disputes in the future, the ulama strongly recommend that the transfer of inheritance rights, in the form of a gift, be documented in writing through an authorised legal institution. This recommendation is corroborated by the findings of Sulaiman⁵⁵ and Ahmed⁵⁶, which indicate that inheritance is closely related to gifts, particularly when gifts are conferred by heirs to other heirs. Although this practice is permissible under Islamic law, it may be

⁴⁹ Khairuddin Hasballah et al., "Identifying 'Illat through Munasabah in Islamic Law: A Perspective of Imam Al-Ghazali," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (2021): 598, <https://doi.org/10.22373/sjhk.v5i2.10914>.

⁵⁰ Rafikah Rafikah et al., "The Inheritance System and Resolution of Inheritance Disputes in Jambi Malay Customs: A Case Study in Merangin Regency," *Satwika: Kajian Ilmu Budaya Dan Perubahan Sosial* 9, no. 1 (2025): 180–81, <https://doi.org/10.22219/satwika.v9i1.39963>.

⁵¹ Dwi Joko Rahmadi et al., "Pemikiran Al Syatibi Dalam Pembaharuan Hukum Islam," *Jurnal Penelitian Ilmu Pendidikan Indonesia* 4, no. 1 (2025): 141, <https://doi.org/10.31004/jpion.v4i1.332>.

⁵² Metin Aydin and Feyza Cevherli, "A Utilitarian Islamic Jurist: Al-Shatibi," *Religions* 16, no. 3 (2025): 1–2, <https://doi.org/10.3390/rel16030290>.

⁵³ Juliyana Junaidi, Latifah Abdul Majid, and Mohd Arif Nazri, "Revisiting Social Justice: Exploring the Qur'anic Paradigm in Addressing Contemporary Challenges," *Afkar: Jurnal Akidah Dan Pemikiran Islam* 25, no. 2 (2023): 153, <https://doi.org/10.22452/afkar.vol25no2.5>.

⁵⁴ Wahbah Al-Zuhaili, *Ushul Fiqh Al Islamiy* (Beirut Libanon: Dar al-Fikr, 2008), 78.

⁵⁵ Mursalin Sulaiman, "Review of Maqāshid Al Syarī'ah Regarding Grants Counted as Inheritance in Article 211 of the Compilation of Islamic Law," *Jurnal Al-Fikrah* 13, no. 2 (2024): 292, <https://doi.org/10.54621/jiaf.v13i2.884>.

⁵⁶ Habib Ahmed, "Islamic Normative Legal Theory: Framework and Applications," *Journal of Law and Religion*, 2025, 1–3, <https://doi.org/10.1017/jlr.2025.10056>.

rescinded if the criteria of consent and justice are not fulfilled and if it is not recorded through legal procedures. A similar viewpoint was expressed by Harahap et al.,⁵⁷ in their research, which elucidated that gifts exchanged among heirs can be classified as part of an inheritance, contingent upon mutual agreement, alongside the necessity of legally documenting the asset transfer process.

Meanwhile, Busroh et al.⁵⁸ explain that gifts not registered through legal procedures are at high risk of being annulled in the event of a conflict or injustice influenced by misunderstanding and unfairness. Other research findings indicate that transferring inheritance rights without obtaining the consent of all heirs can give rise to serious legal issues, including the possibility of cancellation through court proceedings, as discussed by Probowo et al.,⁵⁹ highlighting the legal risks associated with transfers that do not involve all entitled parties. Furthermore, an examination of the validity of gifts indicates that a notarial deed is a formal requirement that cannot be overlooked for the validity of gifts of fixed assets. Zulkarnain et al.⁶⁰ elucidate that the absence of clear legal formalities can render the gift invalid, referring to Article 1682 of the Civil Code, which underscores the risks of gifts based solely on verbal agreements. Therefore, adhering to legal procedures by registering inherited land rights or transfers, as outlined in the Civil Code, is crucial for heirs.⁶¹

From the perspective of the theory of utility developed by Jeremy Bentham, it can be argued that the decision of heirs to transfer their inheritance rights to siblings, based on willingness and sincerity, can be seen as a manifestation of social utility. However, to safeguard the rights of heirs as recipients of the transfer and to ensure legal protection, this transfer process should be executed in accordance with applicable legal procedures. Bentham,⁶² in his theory of legal utility (utilitarianism), posited that good law is one that provides social benefits and prevents conflict.

In the context of the transfer of inheritance rights, legal steps, such as the preparation of authentic deeds and registration of gifts, play a significant role as instruments to avoid future disputes and protect the rights of the recipients of the gift or transfer. Without these steps, the social benefits obtained by an individual may be jeopardised due to a lack of legal certainty (*rechtszekerheid*). Simamora⁶³ explained that official legal documents, such as a deed of gift drawn up by an authorised official, serve as perfect evidence (*volledig bewijs*), which is critical

⁵⁷ Purnama Hidayah Harahap et al., "Religious Court Decisions Regarding the Revocation of Grant (Hibah) in the Perspective of Islamic Jurisprudence," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023): 233, <https://doi.org/10.24090/mnh.v17i2.9767>.

⁵⁸ Firman Freaddy Busroh, Fatria Khairo, and Putri Difa Zhafirah, "Implementation Of The Contrarius Actus Principle In Revocation Of Land Certificate Without A Court," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 1 (2023): 345, <https://doi.org/10.31941/pj.v22i1.2512>.

⁵⁹ Setio Prabowo, M Sudirman, and Cicilia Julyani Tondy, "Perlindungan Hukum Bagi Ahli Waris Terhadap Harta Warisan Yang Beralih Tanpa Persetujuan Ahli Waris," *Jaksa: Jurnal Kajian Ilmu Hukum Dan Politik* 1, no. 3 (2023): 63, <https://doi.org/10.51903/jaksa.v1i3.1346>.

⁶⁰ Zulkarnain, Deni Rusli, and Zakaria Syafe'i, "Pembatalan Hibah Dalam Hukum Islam Dan Perdata Indonesia Dalam Teori Perikatan," *Indonesian Journal of Humanities and Social Sciences* 4, no. 2 (2023): 269, <https://doi.org/10.33367/ijhass.v4i2.4182>.

⁶¹ Helda Amelia, Zaitun Abdullah, and R Utji Sri Wulan Wuryandari, "The Annulment of a Grant Deed Due to Unlawful Act and Violation of Inheritance Law: A Case Study of Decision Number 85/Pdt.G/2021/PN Bdg," *SIGN Jurnal Hukum* 7, no. 1 (2025): 152, <https://doi.org/10.37276/sjh.v7i1.425>.

⁶² Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (London: Oxford Clarendon Press, 1823), 1.

⁶³ Sovia Febrina Tamaulina Simamora, "Surat Keterangan Hak Waris Dalam Ketentuan Hukum Waris Nasional," *Visi Sosial Humaniora* 3, no. 2 (2022): 215, <https://doi.org/10.51622/vsh.v3i2.1117>.

for protecting the rights and establishing legal certainty for the party receiving the transfer of inheritance rights. Furthermore, regarding the substance of the agreement, it is fundamentally essential that every process of transfer of inheritance rights requires the express consent of all legal heirs; without the consent of all parties, the action can be deemed legally ineffective and potentially annulled through the courts.

The findings of this study, in conjunction with several preceding studies, seek to corroborate that the practice of inheritance transfer in Margoyoso Village is firmly rooted in *maṣlahah* theory and the law of gifts, as understood from the perspectives of both Islamic law and applicable positive law (*ius constitutum*). Nevertheless, to ensure continuity and mitigate potential disputes, it is advisable to pursue official registration through a legal institution as a means of providing legal protection and certainty for all parties involved.

Conclusion

Based on the results of the discussion and analysis previously articulated, this study concludes that the practice of inheritance rights transfer in the distribution of inheritance among heirs in Margoyoso Village, Kalinyamatan District, Jepara Regency reflects a significant commitment to maintaining familial relationships, thereby fostering a harmonious existence among the heirs. This commitment is evidenced by the transfer of inheritance rights, which is predicated on willingness and sincerity. The actions of the heirs, from an Islamic legal perspective, align harmoniously with the principle of *maṣlahah*. However, when examined through the lens of applicable positive law (*ius constitutum*), specifically the Civil Code, it fails to adequately reflect the intended benefits. This discrepancy arises because the practice of inheritance rights transfer, which manifests as a gift, predominantly relies on verbal agreements among heirs, thereby generating the potential for future conflicts. Consequently, the heirs who receive the transfer of rights may have such transfers annulled through legal proceedings. This research contributes to the academic discourse surrounding the integration of Islamic law with positive law in the context of inheritance rights transfer within family inheritance distribution, underscoring the values of social justice and welfare. Furthermore, it serves as a foundational resource for community members and policymakers to promote the integration of legal procedures with familial norms, thereby mitigating potential conflicts regarding the transfer of inheritance rights in the future.

References

- A., Nur Afni, Sarah Suleman, and Arfan. "Legal Implications of Inherited Land Certificate Split: A Review of Agrarian Law and Inheritance Law Perspectives." *NUKHBATUL 'ULUM: Jurnal Bidang Kajian Islam* 10, no. 118–137 (2024). <https://doi.org/10.36701/nukhbah.v10i1.1375>.
- Abdуроaf, Muneer, and Mogamat Soliegh Ceres. "Addressing Inheritance and Divorce Disputes in Deathbed Situations: A Maslahah-Based Study of South Africa's Muslim Minority." *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 8, no. 1 (2024): 37–49. <https://doi.org/10.30659/jua.v8i1.36782>.
- Abubakari, Zaid, Christine Richter, and Jaap Zevenbergen. "Plural Inheritance Laws, Practices and Emergent Types of Property-Implications for Updating the Land Register." *Sustainability* 11, no. 21 (2019): 1–17. <https://doi.org/10.3390/su11216087>.
- Ahmed, Habib. "Islamic Normative Legal Theory: Framework and Applications." *Journal of Law and Religion*, 2025, 1–31. <https://doi.org/10.1017/jlr.2025.10056>.
- Al-Zuhaili, Wahbah. *Ushul Fiqh Al Islamy*. Beirut Libanon: Dar al-Fikr, 2008.

- Amelia, Helda, Zaitun Abdullah, and R Utji Sri Wulan Wuryandari. "The Annulment of a Grant Deed Due to Unlawful Act and Violation of Inheritance Law: A Case Study of Decision Number 85/Pdt.G/2021/PN Bdg." *SIGn Jurnal Hukum* 7, no. 1 (2025): 152–72. <https://doi.org/10.37276/sjh.v7i1.425>.
- Anggraeni, Rr Dewi. "Islamic Law and Customary Law in Contemporary Legal Pluralism in Indonesia: Tension and Constraints." *Ahkam: Jurnal Ilmu Syariah* 23, no. 1 (2023): 25–48. <https://doi.org/10.15408/ajis.v23i1.32549>.
- Arifin, Zainal, Maskota Delfi, and Sidarta Pujiraharjo. "Tunggu Tubang and the Extended Family Property Inheritance System in Semende Community, Indonesia." *Social Identities* 29, no. 3 (2023): 243–65. <https://doi.org/10.1080/13504630.2023.2210075>.
- Aristoni, and Dea Prahesti. "Legal Reconstruction Settlement of Mudharabah Claims at KSPPS BMT Muamalat Mulia Kudus: Masalah Mursalah Perspective." *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 15, no. 2 (2024): 313–32. <https://doi.org/10.22212/jnh.v15i2.4542>.
- Aydin, Metin, and Feyza Cevherli. "A Utilitarian Islamic Jurist: Al-Shatibi." *Religions* 16, no. 3 (2025): 1–16. <https://doi.org/10.3390/rel16030290>.
- Bentham, Jeremy. *An Introduction to the Principles of Morals and Legislation*. London: Oxford Clarendon Press, 1823.
- Busroh, Firman Freaddy, Fatria Khairo, and Putri Difa Zhafirah. "Implementation Of The Contrarius Actus Principle In Revocation Of Land Certificate Without A Court." *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 1 (2023): 345–53. <https://doi.org/10.31941/pj.v22i1.2512>.
- Dimiyati, Yayat. "Inheritance in the Perspective of Customary Law and the Compilation of Islamic Law." *VRISPRAAK: International Journal of Law* 9, no. 1 (2025): 58–79. <https://doi.org/10.59689/vris.v9i1.1155>.
- Fauzi, Muhammad Latif. "Changing Trends in the Study of Sharia in Indonesia: An Account on Relevant Bibliographies." *JOURNAL OF INDONESIAN ISLAM* 16, no. 2 (2022): 511–33. <https://doi.org/10.15642/JIIS.2022.16.2.511-533>.
- Gorain, Sourav Chandra. "Human, Society and Environment: A Collaborative Study." *EPRA International Journal of Multidisciplinary Research (IJMR)* 9, no. 1 (2023): 198–210. <https://doi.org/10.36713/epra12247>.
- Harahap, Purnama Hidayah, Asmuni, Akmaluddin Syahputra, Ahmad Rezy Meidina, and Anwar Zein. "Religious Court Decisions Regarding the Revocation of Grant (Hibah) in the Perspective of Islamic Jurisprudence." *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023): 233–48. <https://doi.org/10.24090/mnh.v17i2.9767>.
- Hasan, Muhammad, Dahlia Haliah Ma'u, and Muallimin Mochammad Sahid. "Inheritance Property Distribution Models Among the Muslim Community of Borneo-Nusantara." *Al-'Adalah* 21, no. 1 (2024): 175–98. <https://doi.org/10.24042/adalah.v21i1.22310>.
- Hasballah, Khairuddin, Andi Darna, Wardana Said, Hajarul Akbar, Ihdi Karim Makinara, and Faisal Fauzan. "Identifying 'Illat through Munasabah in Islamic Law: A Perspective of Imam Al-Ghazali." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (2021): 598–618. <https://doi.org/10.22373/sjkh.v5i2.10914>.
- Hernowo, Wempy Setyabudi, Zaid, and M. Aufar Saputra Pratama Erawan. "Peran Sociological Jurisprudence Dalam Menciptakan Keefektivitasan Hukum Melalui Living Law." *Legalitas: Jurnal Hukum* 13, no. 1 (2021): 44–52. <https://doi.org/10.33087/legalitas.v13i1.243>.
- Idary, Muhammad Tsaqib, Oyo Sunaryo Mukhlis, Beni Ahmad Saebani, and Restu Khaliq.

- "Plurality of Inheritance Legal System for Indonesian Muslims: A Sociological Review." *TATHO: International Journal of Islamic Thought and Sciences* 1, no. 4 (2024): 252–62. <https://doi.org/10.70512/tatho.v1i4.55>.
- Ilyas, Ilyas, Faisal A Rani, Syamsul Bahri, and Sufyan Sufyan. "The Accommodation of Customary Law to Islamic Law: Distribution of Inheritance in Aceh from a Pluralism Perspectives." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 897–919. <https://doi.org/10.22373/sjkh.v7i2.15650>.
- Ionaș, Diana Geanina. "The Certificate of Inheritance—Legal Nature and Probative Value." *Bulletin of the Transilvania University of Brașov, Series VII: Social Sciences and Law* 15, no. 2 (2022): 283–90. <https://doi.org/10.31926/but.ssl.2022.15.64.2.18>.
- Jamburi, Ahmad, and Mohammad Muhibbin. "Matrilineal System Mechanism for The Distribution of Inheritance Rights." *Jurnal Cakrawala Hukum* 15, no. 2 (2024): 122–33. <https://doi.org/10.26905/idjch.v15i2.15159>.
- Judiasih, Sonny, and Efa Laela Fakhriah. "Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia." *PADJADJARAN Jurnal Ilmu Hukum* 5, no. 2 (2018): 315–30. <https://doi.org/10.22304/pjih.v5n2.a6>.
- Junaidi, Juliyana, Latifah Abdul Majid, and Mohd Arif Nazri. "Revisiting Social Justice: Exploring the Qur'anic Paradigm in Addressing Contemporary Challenges." *Afkar: Jurnal Akidah Dan Pemikiran Islam* 25, no. 2 (2023): 153–92. <https://doi.org/10.22452/afkar.vol25no2.5>.
- Keliat, Venia Utami, Syifaa Setiawan, and Yanti Arnilis. "Peran Notaris Dalam Pembagian Dan Penyelesaian Sengketa Waris." *Unes Law Review* 7, no. 3 (2025): 1466–79. <https://doi.org/10.31933/unesrev.v7i4.2427>.
- Khuan, Hendri, Mohamad Hidayat Muhtar, Ahmad, Viorizza Suciani Putri, and Supriyadi A. Arief. "Customary Law in Modern Legal Systems: Lessons from Indonesia and South Africa." *Novum Jus* 19, no. 2 (2025): 77–103. <https://doi.org/10.14718/NovumJus.2025.19.2.3>.
- Limbong, Rosalina. "A Legal Perspective on Inheritance of Joint Property: A Comparative Analysis of Various Legal Systems." *Legal Frontier* 1, no. 1 (2025): 11–18. <https://pub.muzulab.com/index.php/LegalFrontier/article/view/7>.
- Maimanah, Maimanah, M Fahmi Al-Amruzy, Arni Arni, and Siti Faridah. "Delay in the Division of Inheritance: A Theoretical Review within Legal System Framework in Indonesia." *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 1 (2024): 241–57. <https://doi.org/10.18592/sjhp.v24i1.12916>.
- Mappong, Zainuddin, and Lili. "Right to Self Submission to Western Inheritance Law for the Heirs Of Islamic Religion Whom the Property Leaver Has Different Religion." *Journal of Law and Sustainable Development* 11, no. 2 (2023): e423. <https://doi.org/10.55908/sdgs.v11i2.423>.
- Margaretha, Natasya, and Bono Budi Priambodo. "The Effectiveness of the Notary's Role in the Inheritance Distribution Process in Society: A Comparative Study Between Batak Toba Customary Law and Civil Law." *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 24, no. 1 (2025): 5633–43. <https://doi.org/10.31941/pj.v24i2.6401>.
- Munawaroh, Hifdhotul, Haerul Akmal, Rashda Diana, and Cecep Soleh Kurniawan. "Maslahah and Justice in Islamic Inheritance: A Normative and Jurisprudential Inquiry." *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan* 24, no. 2 (2025): 184–201. <https://doi.org/10.30863/ekspose.v24i2.9990>.
- Mutakabbir, Abdul, Hastuti Hastuti, and Mikdar Rusdi. "The System of Inheritance

- Distribution in South Sulawesi." *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (2023): 57–76. <https://doi.org/10.18326/ijtihad.v23i1.57-76>.
- Nasution, Hotnidah, and Ahmad Rifqi Muchtar. "Negotiating Islamic Law: The Practice of Inheritance Distribution in Polygamous Marriages in Indonesian Islamic Courts." *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 1 (2024): 125–44. <https://doi.org/10.24090/mnh.v18i1.10921>.
- Nursinah, Andi, Suningsih Suabey, Erni Kadir, A Syamsinar Asmi, and Reni Purbanova. "Environmental Sociology Approach From A Social Risk Perspective." *Internatiional Journal of Health Science* 1, no. 2 (2023). <https://doi.org/10.59585/ijhs.v1i2.59>.
- Pardede, Fernandus H. "Legal Statement of Deed of Inheritance Made by a Notary Who Does Not Include All Heirs in the Distribution of Inheritance." *Indonesian Journal of Advanced Research* 2, no. 5 (2023): 435–48. <https://doi.org/10.55927/ijar.v2i5.4164>.
- Prabowo, Setio, M Sudirman, and Cicilia Julyani Tondy. "Perlindungan Hukum Bagi Ahli Waris Terhadap Harta Warisan Yang Beralih Tanpa Persetujuan Ahli Waris." *Jaksa: Jurnal Kajian Ilmu Hukum Dan Politik* 1, no. 3 (2023): 63–70. <https://doi.org/10.51903/jaksa.v1i3.1346>.
- Pratiwi, Neisty. "Pembagian Warisan Dalam Hukum Islam: Konflik Dan Solusi Di Pengadilan Agama." *Jurnal Ilmiah Ar-Risalah: Media Keislaman, Pendidikan Dan Hukum Islam* 23, no. 01 (2025): 73–90. <https://doi.org/10.69552/ar-risalah.v23i1.2762>.
- Rafikah, Rafikah, Devrian Ali Putra, Suci Nora Julina Putri, and Rafik Darmansyah. "The Inheritance System and Resolution of Inheritance Disputes in Jambi Malay Customs: A Case Study in Merangin Regency." *Satwika : Kajian Ilmu Budaya Dan Perubahan Sosial* 9, no. 1 (2025): 180–92. <https://doi.org/10.22219/satwika.v9i1.39963>.
- Rahmadi, Dwi Joko, Siti Nurjanah, Siti Zulaikha, and Agus Hermanto. "Pemikiran Al Syatibi Dalam Pembaharuan Hukum Islam." *Jurnal Penelitian Ilmu Pendidikan Indonesia* 4, no. 1 (2025): 141–49. <https://doi.org/10.31004/jpion.v4i1.332>.
- Ravensbergen, Sanne. "Meetings and Minutes: Spaces of Lawmaking and Legal Translation in Colonial Indonesia." *Journal of Southeast Asian Studies* 54, no. 4 (2023): 736–59. <https://doi.org/10.1017/S0022463423000711>.
- Ritonga, Raja, and Mahyudin Ritonga. "The Dynamics of Islamic Inheritance in Indonesia Between Sharia and Social Realities." *Maqasid: Jurnal Studi Hukum Islam* 13, no. 1 (2024): 59–71. <https://doi.org/10.30651/mqs.v13i1.22583>.
- Rossi, Giovanni, Mark Dingemanse, Simeon Floyd, Julija Baranova, Joe Blythe, Kobin H. Kendrick, Jörg Zinken, and N. J. Enfield. "Shared Cross-Cultural Principles Underlie Human Prosocial Behavior at the Smallest Scale." *Scientific Reports* 13, no. 1 (2023). <https://doi.org/10.1038/s41598-023-30580-5>.
- Santosa, Muhammad Alif, and Wira Franciska. "Legal Protection for Heirs Who Have Not Received Their Rights in Inheritance Distribution." *Journal of Social Research* 4, no. 8 (2025): 2157–66. <https://doi.org/10.55324/josr.v4i8.2727>.
- Sergio Felix Asalim, Sugianto, and Setyabudhi. "Ketidakseragaman Pewarisan Dalam Penerapan Hukum Waris Secara Nasional." *Aktivisme: Jurnal Ilmu Pendidikan, Politik Dan Sosial Indonesia* 1, no. 3 (2024): 301–9. <https://doi.org/10.62383/aktivisme.v1i3.398>.
- Simamora, Sovia Febrina Tamaulina. "Surat Keterangan Hak Waris Dalam Ketentuan Hukum Waris Nasional." *Visi Sosial Humaniora* 3, no. 2 (2022): 215–22. <https://doi.org/10.51622/vsh.v3i2.1117>.
- Siregar, Gagah Hotma Parulian, and Widhi Handoko. "Kajian Studi Kasus Hukum Waris Putusan Mahkamah Agung Nomor 784 K/Pdt/2014 Terhadap Kententuan Hukum Waris

- Barat." *Notarius* 15, no. 2 (2022): 107–615. <https://doi.org/10.14710/nts.v15i2.36976>.
- Sulaiman, Mursalin. "Review of Maqāshid Al Syarī'ah Regarding Grants Counted as Inheritance in Article 211 of the Compilation of Islamic Law." *Jurnal Al-Fikrah* 13, no. 2 (2024): 292–304. <https://doi.org/10.54621/jiaf.v13i2.884>.
- Suryawan, I Nengah Pasek, and Rineke Sara. "Legal Certainty Regarding Pluralism of Inheritance Law in Indonesia in the Transfer of Inheritance Rights in Indonesia." *Indonesian Journal of Multidisciplinary Science* 4, no. 3 (12024): 145–54. <https://doi.org/10.55324/ijoms.v4i3.1041>.
- Suwarti, Decha Khunmay, and Stepan Abannokovya. "Conflicts Occurring Due to the Application of Different Legal Inheritance Systems in Indonesia." *Legality : Jurnal Ilmiah Hukum* 30, no. 2 (2022): 214–27. <https://doi.org/10.22219/ljih.v30i2.21020>.
- Syaikhu, M. Fahmi Al Amruzi, Mujiburahman, and Norwili. "Legal Harmonization in the Distribution of Inheritance in the Dayak Ngaju Community in Central Kalimantan, Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023): 195–215. <https://doi.org/10.22373/sjkh.v7i1.12410>.
- Wardi, Utama, Yaswirman Yaswirman, Ismail Ismail, and Gafnel Gafnel. "Comparative Analysis of Islamic Family Law and Customary Law in the Settlement of Inheritance Disputes in Indonesia." *Hakamain: Journal of Sharia and Law Studies* 3, no. 1 (2024): 13–25. <https://doi.org/10.57255/hakamain.v3i1.330>.
- Wells, Victoria K, Marylyn Carrigan, and Navdeep Athwal. "Holding on or Letting Go: Inheritance as a Liminal Experience." *Marketing Theory* 23, no. 3 (2023): 509–32. <https://doi.org/10.1177/14705931231162400>.
- Widiastuti, Setiati, Iffah Nurhayati, Puji Wulandari Kuncorowati, and Chandra Dewi Puspitasari. "A Shift of Inheritance Tradition in Batak Migrant Communities in Yogyakarta." *Jurnal Civics: Media Kajian Kewarganegaraan* 21, no. 1 (2024): 41–53. <https://doi.org/10.21831/jc.v21i1.71621>.
- Zaelani, Abdul Qodir, Faisal Faisal, Mokhamad Samson Fajar, and Abdul Hanif. "An Implementation of the Joint Inheritance Division of Ethnic Groups in Lampung, Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1373–96. <https://doi.org/10.22373/sjkh.v7i3.9125>.
- Zulkarnain, Deni Rusli, and Zakaria Syafe'i. "Pembatalan Hibah Dalam Hukum Islam Dan Perdata Indonesia Dalam Teori Perikatan." *Indonesian Journal of Humanities and Social Sciences* 4, no. 2 (2023): 269–88. <https://doi.org/10.33367/ijhass.v4i2.4182>.

Interviews

- JS, "Interview with heirs in Margoyoso" (2023)
- MS, "Interview with heirs in Margoyoso" (2023)
- AR, "Interview with heirs in Margoyoso" (2023)
- SP, "Interview with heirs in Margoyoso" (2023)
- JK, "Interview with Notary and PPAT of Jepara Regency" (2023)
- FS, "Interview with Jepara Regency Advocate" (2023)
- HM, "Interview with Religious Leaders in Pecangaan District, Jepara Regency" (2023)
- SB, "Personal Interview with Community Leaders in Jati District, Kudus Regency" (2023)